Supreme Court, U.S.
FILED

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No. _____

In The

Supreme Court of the United States

MARK ST. JULIEN,

Petitioner,

versus

STATE OF LOUISIANA,

Respondent.

On Petition For Writ Of Certiorari To The Fifteenth Judicial District Court, Lafayette Parish, Louisiana

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether or not the Third Circuit Court of Appeal and the Louisiana Supreme Court erred in denying the Writ on the Motion to Suppress **INCULPATORY** statements given on May 30, 2002, by the juvenile.

PARTIES TO THE PROCEEDINGS

PETITIONER

Mark St. Julien

RESPONDENT

State of Louisiana

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OPINIONS BELOW

On February 19, 2003, Honorable Glennon P. Everett, of the Louisiana 15th Judicial District Court rendered written reasons in which he denied the defendant's, Mark St. Julien, motion to Suppress the defendants inculpatory statement, given on May 30, 2002.

On June 11, 2003, the Louisiana Third Circuit Court of Appeal denied the defendant's Writ of Review stating the trial court did not abuse its discretion in denying the motion to suppress.

On July 18, 2003, the Louisiana State Supreme Court denied the defendant's Supervisory and/or Remedial Writs.

JURISDICTION

This Honorable Court has jurisdiction pursuant to 28 U.S.C. 1257.

CONSTITUTIONAL PROVISION

" . . . No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life or liberty without due process of law." U.S. Const. Amendment V.

STATEMENT OF THE CASE

On or about May 30, 2002 the defendant, Mark St. Julien, fifteen (15) years of age was charged with first

degree murder after he, Mark St. Julien, gave a statement to authorities without his parents or an adult interested in the welfare of the juvenile being present during the interrogation. The defense filed a Motion to Suppress whereby the Motion to Suppress was heard on February 14, 2003 and was denied by the Honorable Glennon P. Everett, 15th Judicial District Judge on February, 19, 2003 (see Appendix). On June 11, 2003, the Third Circuit Court of Appeals denied the Supervisory Writ. (See Appendix).

On or about May 30, 2002 an interview of the defendant, Mark St. Julien, was conducted at the police station, the defendant and his mother were brought down to the police station by officers, at which time the defendant was a suspect, and was not free to leave once at the station. The officers never informed the defendant, or the defendant's mother that Mark St. Julien, the defendant, was not free to leave the station, prior to giving his statement. **(See Appendix, pg. 107, lines 26-32 and pg. 108, lines 1-5).** Although a waiver was signed by both Mark St. Julien and his mother, Denise St. Julien, the officers conducted an interview without a parent, concerned adult, or attorney present. During this interview an **INCULPATORY** statement was given. The defendant who was only fifteen (15) years of age and who had no experience with the legal system did not have his mother present during the May 30, 2002, interrogation and did not waive her presence to that interrogation.

On May 29, 2002, when Detective Kyle Manceaux took the initial statement from the defendant, it is asserted that his recorded statement was taken in the home of the defendant in the kitchen at the kitchen table in which only Detective Manceaux and the defendant were present. The

defendant's mother and other family members were in another joining room. It is submitted that this statement was taken also outside the presence of the defendant's mother.

The defense asserts that Mark St. Julien, at the time of this offense was fifteen (15) years of age and had no experience in the criminal justice system. The defendant was considered to be a witness at the May 29, 2002 interview, as stated by the officers.

Mark St. Julien's mother, Denise St. Julien, is also a woman with no experience in the criminal justice system. Denise St. Julien had an eleventh grade education.

On May 30, 2002, after the signing of the waiver forms, Detective Randall left the waiting room first with Ms. St. Julien and only after Ms. St. Julien left the room did Detective Brenke take Mark St. Julien to the interrogation room. Detective Charles Brenke testified that "when Detective Randall left with Ms. St. Julien, he (Det. Randall) had already told her that he was going to speak with her." "And she looked at me (Det. Brenke) and said, "You're going to be with him, right?" "And I acknowledged her, I said yes." (See Appendix pg. 130, lines 24-32). Det. Brenke was asked did you ever have a frank conversation with Ms. St. Julien about you taking Mark and she not being present, and Det. Brenke stated "I don't think so." (See Appendix pg. 131, lines 4-8).

ARGUMENT

The trial court erred in denying the Motion to Suppress juvenile defendant's **INCULPATORY** statements given on May 30, 2002.

In *State v. Fernandez*, 712 So.2d 485 (La. 1998), a sixteen year old was arrested and advised of his rights. He blurted out remorse and offered to cooperate with police. Police interrogated him for the location of evidence. The juvenile told the officer about the weapon and led him to it. **In this case no parent was present but the defendant was informed he was under arrest, but chose to blurt out this statement while in the police car.** Also the officer did not know the defendant was a juvenile. Both the trial court and appellant court suppressed the statements. The Louisiana Supreme Court grated writs to determine whether the *State v. the Interest of Dino,* 359 So.2d 485 (La. 1978), requirements should still be used or should the Court return to a totality of the circumstances test. *Fernandez, supra.*

The Supreme Court found that the concerns of *Dino* could be achieved through the totality of the circumstances test. *Fernandez, supra.* In *Fernandez* the Supreme Court ruled "all of the attending facts and circumstances must be considered and weighed in determining whether a juvenile's confession was knowingly and freely given." *Supra. Fernandez* also ruled "among those factors are the juvenile's youth, experience, comprehension, and the presence or absence of an interested adult." *Supra. Fernandez* did not state that the factors of *Dino* are no longer important but only not to use the prophylactic requirements of *Dino.*

Although the *Dino* requirements were overruled by *Fernandez*, this is the only Louisiana State Supreme Court case which specifically addresses a parent or concerned

adult being present during the interrogation of a minor. In *Dino* the court stated whatever the background of the juvenile interrogated, assistance of an adult acting in his interest is indispensable to overcome the pressures of the interrogation and to insure that the juvenile knows he is free to exercise his rights at that point. *State in the interest of Dino*, 359 So.2d 586 (La. 1978).

Dino went on to state "The presence of a parent, counsel, or other adult acting in the juvenile's interest at the interrogation may serve several significant subsidiary functions as well. If the juvenile decides to talk to his interrogators, the assistance of an adult can mitigate the dangers of untrustworthiness. With an adult acting in his interest present the likelihood that the police will practice coercion is reduced, and if coercion is nevertheless exercised the adult can testify to it in court. The presence of such an adult can also help to guarantee that the accused gives a fully accurate statement and that the statement is rightly reported by the prosecution at trial. *State in the interest of Dino*, 359 So.2d 586 (La. 1978). This demonstrates the importance the Louisiana State Supreme Court places on having a parent or concerned adult present during an interrogation. This is also demonstrated in the Third Circuit Court of Appeals rulings in *State v. Hundley*, 760 So.2d 417 (La.App. 3d Cir. 3/22/00) the Court stated the proper inquiry (whether a statement was freely and voluntarily given) is whether the presence of and consultation with a concerned adult resulted in a voluntary and reliable statement. *Supra*.

Using the totality of circumstances standard from *Fernandez* on the case at bar, specifically the inculpatory statement given on May 30, 2002:

The defendant was a 15 year old;

The defendant had no prior experience with the criminal justice system;

The defendant had an eighth grade education;

The defendant's mother had no prior experience with the criminal justice system;

The defendant's mother had an eleventh grade education;

The defendant was questioned without his mother present, although she was present at the station;

The defendant was a suspect;

The defendant was brought to the station by the officers;

Neither the defendant nor his mother was informed that the defendant was not free to leave, prior to the taking of the inculpatory statement.

The case at bar is different from *Fernandez* in that the defendant was a suspect, who was not free to leave the police station prior to giving the inculpatory statement on May 30, 2002, and his mother was not present when this statement was given, although she was present at the police station. If the officers would have truly wanted this to be an informed waiver of the minor's rights, the officers should have informed the defendant and his mother of the fact he, Mark St. Julien, was not free to leave the station. Also, the officers would have allowed the mother to be present in the room while the interrogation was taking place. Instead the detectives used their training and skill to prey on the juvenile's and his mother's inexperience with the criminal justice system to get Mark St. Julien alone in a room to interrogate him. Under these facts this

was not an informed waiver of the minor, Mark St. Julien's, rights, and thus the statement given on May 30, 2002 should be suppressed.

CONCLUSION

Based upon the above argument and case law the May 30, 2002, inculpatory statement should be suppressed because the defendant did not give an informed waiver of his rights.

Respectfully submitted this 16th day of October, 2003

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STATE OF LOUISIANA	*	15th JUDICIAL
VERSUS	*	DISTRICT COURT
MARK ST. JULIEN	*	CRIMINAL DOCKET NO. 95100
	*	LAFAYETTE PARISH, LOUISIANA

RULING

The court took this matter under advisement for purposes of completing additional research on the admissibility of the taped confession of Mark St. Julien taken at the Lafayette City Police station on May 30, 2002.

After review the court finds that the confession is admissible in light of the evidence presented and the pleadings filed by the defendants counsel.

A review of the Motion to Suppress filed questions the constitutionality of the confession on 5th Amendment grounds. It alleges coercion, and a lack of understanding of his rights by both this defendant and his mother. I do not believe this to be the case. Both St. Juliens spoke with Police officers over the course of two (2) days and Miranda rights were explained to them more than once. At no time was there any indication they did not understand them.

Further, when reviewing the process as a whole I do not believe the officers involved crossed the line and impermissably coerced the confession from the defendant. While he was told that the police had knowledge of his guilt, and was encouraged to tell the truth, those tactics are permissible.

In considering this matter in light of the totality of the circumstances and the factors enumerated in *State v. Fernandez*, 712 So2d 485 (La. 1998), I believe the confession's admissibility does not offend the constitutional protections afforded this Juvenile.

The Court has not considered any potential 4th Amendment violations since none were pled. See LSA-C.CR.P. Art. 703. It would be unfair to require the State to present evidence in carrying its burden without knowing the defendants complaints.

Crowley, Louisiana, this 19th day of February, 2003.

/s/ Glennon P. Everett
GLENNON P. EVERETT,
DISTRICT JUDGE

STATE OF LOUISIANA

COURT OF APPEAL, THIRD CIRCUIT

NO: KW 03-00384

STATE OF LOUISIANA
VERSUS
MARK ST. JULIEN

FILED: 03/31/03

On application of M S.J for Writ of Review in No. 2002CR95100 on the docket of the Fifteenth Judicial District Court, Parish of Lafayette, Hon. Glennon P. Everett.

	Counsel for:
Lynden James Burton	M S.J
	Counsel for:
Michael Harson	State of Louisiana

Lake Charles, Louisiana, on June 11, 2003.

WRIT DENIED: The trial court did not abuse its discretion in denying the motion to suppress. Accordingly, the Defendant's writ application is denied.

JDS	BCW	MTA
JDS	BCW	MTA

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

VS. NO. 2003-KK-1981

MARK ST. JULIEN

IN RE: St. Julien, Mark; – Defendant; Applying for Supervisory and/or Remedial Writs, Parish of Lafayette, 15th Judicial District Court Div. F, Nos. 95100; to the Court of Appeal, Third Circuit, No. KW 03-00384

July 18, 2003

Denied.

CDT

PFC

CDK

JPV

JTK

JLW

Supreme Court of Louisiana
July 18, 2003

/s/ [Illegible]
Deputy Clerk of Court
For the Court

IN THE CRIMINAL DISTRICT COURT
OF THE FIFTEENTH JUDICIAL DISTRICT
LAFAYETTE PARISH, LOUISIANA

STATE OF LOUISIANA

VS. DOCKET NO. 95100

MARK ST. JULIEN

.....

THE HONORABLE GLENNON P. EVERETT PRESIDING

February 14, 2003

MOTION TO SUPPRESS

APPEARANCES:

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The captioned matter came before the Honorable Glennon P. Everett, District Judge, Division F, on Motion to Suppress on February 14, 2003, at the Lafayette Parish

Courthouse, Lafayette, Louisiana, and the following was made of record:

(REPORTER'S TRANSCRIPT OF PROCEEDING)

* * *

[107] A Yes.

Q What time did you go there?

A I would say it was between 3:30 and 4:00 P.M.

Q And then what happened?

A We spoke to Ms. St. Julien. We informed her that we needed to verify certain things and therefore we needed certain information from she and Mark.

Q And you drove them to the station?

A Yes.

Q Could they have driven themselves?

A I don't remember if they had an automobile present or not.

Q Did you tell them they didn't have to answer any questions?

A No, we did not.

Q So, your goal was to get them down to the police station, correct?

A Correct.

Q All right. And once they were gotten there, were they free to leave?

A She was.

Q Did you tell her she could leave?

A No.

Q Was Mark free to leave?

A No.

Q Did you tell them he wasn't free to leave? That he was being detained?

[108] A At that particular time we told him that we needed further clarification on statements that he had reported earlier.

Q Did you tell his mother that he was being detained?

A No, we did not.

Q And when you did the waiver, his mother was present, correct?

A Yes.

Q Throughout the entire process?

A Yes.

Q Eliminating the lawyer, through the waiver, and then you were able to somehow separate Mark from his mother, right? They were in the room together?

A Yes.

Q How did you manage to separate them?

A Well, I simply instructed Ms. St. Julien that I was going to conduct an interview in a separate room with her, and detective Charles Brenke was going to conduct an interview with Mark St. Julien.

Q And she said that was okay?

A Yes.

Q Do you have anything in writing to substantiate it?

A Well, she signed the arrest – I mean, she signed the rights form so that's letting us know that she was willing to issue a statement.

Q Did she give you permission to speak to him alone in writing?

A No, she did not.

Q Mark gave you permission to speak to him alone?

* * *

[130] A Yes, Sir. But to make sure I understand your question correctly, I did the Acknowledgement of Parental Consent, which is the second page on the form, prior to the interview with Mark.

Q I understand you took Mark away from his mother.

A No, Sir. His mother had already left the room.

Q Who did she leave with?

A With Detective Randall.

Q For what purpose?

A To obtain a statement from her.

Q You wanted to take a statement from the mother?

A Mark and I went to the interview room, which is the interview room that's depicted on the video tape.

Q So at the same time there were statements taken from Denise St. Julien by Detective Randall and from Mark?

A To the best of my knowledge, yes.

Q At the same time. Did they know they were giving statements at the same time?

A I assume so.

Q Were they told that?

A When Detective Randall left with Ms. St. Julien, she – he had already told her that he was going to speak with her. And she looked at me and said, "You're going to be with him, right?" And I acknowledged her. I said, "Yes."

Q So she was asking if you and Mark stayed in the room together?

[131] A No, I understood that to mean that I was going to be the one taking the statement from him. She understood that.

Q Did you have a frank conversation with her about you taking Mark and she would not be present?

A A frank discussion?

Q Yes.

A I don't think so.

Q Did Ms. St. Julien know that her son's statement was being video taped?

A I don't know if she knew that or not.

Q Did Mark know that his statement was being video taped?

A He did know that he was being audio taped at the point whenever I instructed him that I was taking the audio tape.

Q Did he know that he was being audio taped?

A I don't know if he knew that or not.

Q At this point, you're alone with him, he doesn't have a lawyer with him, his mother is in the other room. When you began taking the statement, was he denying that he was the perpetrator of a crime?

A Initially, yes.

Q And the day before did he deny that?

A To my knowledge to another officer.

Q Do you think that you did anything to push him into giving the statement?

A No, Sir.

Q Did you get aggressive with him?

* * *